

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**ERIK MCDONALD, JR.,**

Plaintiff,

-vs-

**Case No. 15-CV-1290**

**CAPTAIN WOGSLAND  
ADAMS, et al.,**

Defendants.

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**ORDER**

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Erik McDonald, Jr., a Wisconsin state prisoner, filed a *pro se* action under 42 U.S.C. § 1983, alleging his civil rights were violated. This matter is before the Court on the plaintiff's motion requesting that the Court extend the deadline for him to pay the initial partial filing fee and order the Wisconsin Department of Corrections to release funds from his release account to pay initial partial filing fee. (ECF No. 7.)

The Prison Litigation Reform Act (PLRA) requires the Court to collect the filing fee from a “prisoner’s account.” 28 U.S.C. § 1915(b). The term “prisoner’s account” encompasses both a prisoner’s release account and general account. *Spence v. McCaughtry*, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). However, “given the purpose of the release account to provide funds to the prisoner upon his or her release from incarceration, the Court

does not deem it prudent to routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” *Smith v. Huibregtse*, 151 F. Supp. 2d 1040 (E.D. Wis. 2001). Nevertheless, upon request, the Court may allow a plaintiff to pay a filing fee, or a portion thereof, out of his release account. *Doty v. Doyle*, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

The plaintiff’s desire to have the initial partial filing fee of \$1.73 deducted from his release account is clear; however, according to the account statement filed with the Court (ECF No. 3), he does not have sufficient funds in his release account to make the payment. If additional funds have been placed in his release account since he filed his account statement with the Court, the plaintiff may renew his request and submit a current account statement for the Court’s review. If there are adequate funds in the plaintiff’s release account, the Court will enter the order he requests.

Accordingly, the Court grants the plaintiff’s motion to extend the deadline by which he must pay the initial partial filing fee, but it denies his motion to order the Department of Corrections to deduct that fee from his release account.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS  
HEREBY ORDERED** that the plaintiff's request to pay the initial partial filing fee from his release account (ECF No. 7) is **DENIED**.

**IT IS FURTHER ORDERED** that the plaintiff's request to extend the deadline by which he must pay the initial partial filing fee (ECF No. 7) is **GRANTED**. The plaintiff shall forward to the Clerk of Court the sum of \$1.73 as an initial partial filing fee by **January 15, 2016**.

Dated at Milwaukee, Wisconsin, this 16th day of December, 2015.

**BY THE COURT:**

s/ Pamela Pepper  
for **HON. RUDOLPH T. RANDA**  
**U.S. District Judge**